

Calendar No. 555

107TH CONGRESS
2D SESSION**S. 710****[Report No. 107-245]**

To require coverage for colorectal cancer screenings.

IN THE SENATE OF THE UNITED STATES

APRIL 5, 2001

Mr. KENNEDY (for himself, Mr. HELMS, Mrs. MURRAY, Mr. COCHRAN, Mr. JOHNSON, Mr. MILLER, Ms. SNOWE, Mr. DASCHLE, Ms. CANTWELL, Mr. KERRY, Mr. REID, Mr. BROWNBACK, Mr. ROBERTS, Ms. LANDRIEU, and Mr. JEFFORDS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

AUGUST 28, 2002

Reported under authority of the order of the Senate of July 29, 2002, by Mr. KENNEDY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To require coverage for colorectal cancer screenings.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “**Eliminate Colorectal Cancer Act of 2001**”.

1 (b) FINDINGS.—The Congress finds the following:

2 (1) Colorectal cancer is the second leading
3 cause of cancer deaths in the United States for men
4 and women combined.

5 (2) It is estimated that in 2001, 135,400 new
6 cases of colorectal cancer will be diagnosed in men
7 and women in the United States.

8 (3) Colorectal cancer is expected to kill 56,700
9 individuals in the United States in 2001.

10 (4) The adoption of a healthy lifestyle at a
11 young age can significantly reduce the risk of devel-
12 oping colorectal cancer.

13 (5) Appropriate screenings and regular tests,
14 can save large numbers of lives by leading to earlier
15 identification of colorectal cancer.

16 (6) The Centers for Disease Control and Pre-
17 vention, the Health Care Financing Administration,
18 and the National Cancer Institute have initiated the
19 Screen for Life Campaign targeted to individuals
20 age 50 and older to spread the message of the im-
21 portance of colorectal cancer screening tests.

22 (7) Education helps to inform the public of
23 symptoms for the early detection of colorectal cancer
24 and methods of prevention.

1 **SEC. 2. COVERAGE FOR COLORECTAL CANCER SCREENING.**

2 ~~(a) GROUP HEALTH PLANS.—~~

3 ~~(1) PUBLIC HEALTH SERVICE ACT AMEND-~~
4 ~~MENTS.—~~

5 ~~(A) IN GENERAL.—~~Subpart 2 of part A of
6 title XXVII of the Public Health Service Act
7 ~~(42 U.S.C. 300gg–4 et seq.)~~ is amended by
8 adding at the end the following:

9 **~~“SEC. 2707. COVERAGE FOR COLORECTAL CANCER SCREEN-~~**
10 **~~ING.~~**

11 ~~“(a) COVERAGE FOR COLORECTAL CANCER SCREEN-~~
12 ~~ING.—~~

13 ~~“(1) IN GENERAL.—~~A group health plan, and a
14 health insurance issuer offering group health insur-
15 ance coverage, shall provide coverage for colorectal
16 cancer screening at regular intervals to—

17 ~~“(A) any participant or beneficiary age 50~~
18 ~~or over; and~~

19 ~~“(B) any participant or beneficiary under~~
20 ~~the age of 50 who is at a high risk for~~
21 ~~colorectal cancer, or who may have symptoms~~
22 ~~or circumstances that indicate a need for~~
23 ~~colorectal cancer screening.~~

24 ~~“(2) DEFINITION OF HIGH RISK.—~~For purposes
25 of subsection (a)(1)(B), the term ‘high risk for
26 colorectal cancer’ has the meaning given such term

1 in section 1861(pp)(2) of the Social Security Act (42
2 U.S.C. 1395x(pp)(2)).

3 ~~“(3) METHOD OF SCREENING.—~~The group
4 health plan or health insurance issuer shall cover the
5 method and frequency of colorectal cancer screening
6 deemed appropriate by a health care provider treat-
7 ing such participant or beneficiary, in consultation
8 with the participant or beneficiary. Such coverage
9 shall include the procedures in section 1861(pp)(1)
10 of the Social Security Act (42 U.S.C. 1395x(pp)(1))
11 and section 4104(a)(2) of the Balanced Budget Act
12 of 1997.

13 ~~“(b) NOTICE.—~~A group health plan under this part
14 shall comply with the notice requirement under section
15 714(b) of the Employee Retirement Income Security Act
16 of 1974 with respect to the requirements of this section
17 as if such section applied to such plan.

18 ~~“(c) NON-PREEMPTION OF MORE PROTECTIVE~~
19 ~~STATE LAW WITH RESPECT TO HEALTH INSURANCE~~
20 ~~ISSUERS.—~~This section shall not be construed to super-
21 sede any provision of State law which establishes, imple-
22 ments, or continues in effect any standard or requirement
23 solely relating to health insurance issuers in connection
24 with group health insurance coverage that provides great-

1 er protections to participants and beneficiaries than the
 2 protections provided under this section.”.

3 (B) ~~TECHNICAL AMENDMENT.~~—Section
 4 2723(c) of the Public Health Service Act (42
 5 U.S.C. 300gg-23(c)) is amended by striking
 6 “section 2704” and inserting “sections 2704
 7 and 2707”.

8 (2) ~~ERISA AMENDMENTS.~~—

9 (A) ~~IN GENERAL.~~—Subpart B of part 7 of
 10 subtitle B of title I of the Employee Retirement
 11 Income Security Act of 1974 (29 U.S.C. 1185
 12 et seq.) is amended by adding at the end the
 13 following new section:

14 **“SEC. 714. COVERAGE FOR COLORECTAL CANCER SCREEN-**
 15 **ING.**

16 “(a) ~~COVERAGE FOR COLORECTAL CANCER SCREEN-~~
 17 ~~ING.~~—

18 “(1) ~~IN GENERAL.~~—A group health plan, and a
 19 health insurance issuer offering group health insur-
 20 ance coverage, shall provide coverage for colorectal
 21 cancer screening at regular intervals to—

22 “(A) any participant or beneficiary age 50
 23 or over; and

24 “(B) any participant or beneficiary under
 25 the age of 50 who is at a high risk for

1 colorectal cancer, or who may have symptoms
 2 or circumstances that indicate a need for
 3 colorectal cancer screening.

4 “(2) DEFINITION OF HIGH RISK.—For purposes
 5 of subsection (a)(1)(B), the term ‘high risk for
 6 colorectal cancer’ has the meaning given such term
 7 in section 1861(pp)(2) of the Social Security Act (42
 8 U.S.C. 1395x(pp)(2)).

9 “(3) METHOD OF SCREENING.—The group
 10 health plan or health insurance issuer shall cover the
 11 method and frequency of colorectal cancer screening
 12 deemed appropriate by a health care provider treat-
 13 ing such participant or beneficiary, in consultation
 14 with the participant or beneficiary. Such coverage
 15 shall include the procedures in section 1861(pp)(1)
 16 of the Social Security Act (42 U.S.C. 1395x(pp)(1))
 17 and section 4104(a)(2) of the Balanced Budget Act
 18 of 1997.

19 “(b) NOTICE UNDER GROUP HEALTH PLAN.—The
 20 imposition of the requirements of this section shall be
 21 treated as a material modification in the terms of the plan
 22 described in section 102(a), for purposes of assuring no-
 23 tice of such requirements under the plan; except that the
 24 summary description required to be provided under the
 25 third to last sentence of section 104(b)(1) with respect to

1 such modification shall be provided by not later than 60
 2 days after the first day of the first plan year in which
 3 such requirements apply.”.

4 (B) TECHNICAL AND CONFORMING AMEND-
 5 MENTS.—

6 (i) Section 731(c) of the Employee
 7 Retirement Income Security Act of 1974
 8 (29 U.S.C. 1191(c)) is amended by strik-
 9 ing “section 711” and inserting “sections
 10 711 and 714”.

11 (ii) Section 732(a) of the Employee
 12 Retirement Income Security Act of 1974
 13 (29 U.S.C. 1191a(a)) is amended by strik-
 14 ing “section 711” and inserting “sections
 15 711 and 714”.

16 (iii) The table of contents in section 1
 17 of the Employee Retirement Income Secu-
 18 rity Act of 1974 is amended by inserting
 19 after the item relating to section 713 the
 20 following new item:

“Sec. 714. Coverage for colorectal cancer screening.”.

21 (b) INDIVIDUAL HEALTH INSURANCE.—

22 (1) IN GENERAL.—Part B of title XXVII of the
 23 Public Health Service Act (42 U.S.C. 300gg-41 et
 24 seq.) is amended by inserting after section 2752 the
 25 following new section:

1 **~~“SEC. 2753. COVERAGE FOR COLORECTAL CANCER SCREEN-~~**
 2 **~~ING.~~**

3 ~~“(a) IN GENERAL.—The provisions of section~~
 4 ~~2707(a) shall apply to health insurance coverage offered~~
 5 ~~by a health insurance issuer in the individual market in~~
 6 ~~the same manner as it applies to health insurance coverage~~
 7 ~~offered by a health insurance issuer in connection with a~~
 8 ~~group health plan in the small or large group market.~~

9 ~~“(b) NOTICE.—A health insurance issuer under this~~
 10 ~~part shall comply with the notice requirement under sec-~~
 11 ~~tion 714(b) of the Employee Retirement Income Security~~
 12 ~~Act of 1974 with respect to the requirements referred to~~
 13 ~~in subsection (a) as if such section applied to such issuer~~
 14 ~~and such issuer were a group health plan.”.~~

15 ~~(2) TECHNICAL AMENDMENT.—Section~~
 16 ~~2762(b)(2) of the Public Health Service Act (42~~
 17 ~~U.S.C. 300gg-62(b)(2)) is amended by striking~~
 18 ~~“section 2751” and inserting “sections 2751 and~~
 19 ~~2753”.~~

20 ~~(c) EFFECTIVE DATES.—~~

21 ~~(1) GROUP HEALTH PLANS.—~~

22 ~~(A) IN GENERAL.—Subject to subpara-~~
 23 ~~graph (B), the amendments made by subsection~~
 24 ~~(a) shall apply with respect to group health~~
 25 ~~plans for plan years beginning on or after Jan-~~
 26 ~~uary 1, 2002.~~

1 ~~(B) COLLECTIVE BARGAINING AGREE-~~
 2 ~~MENTS.—~~In the case of a group health plan
 3 maintained pursuant to ~~1~~ or more collective
 4 bargaining agreements between employee rep-
 5 resentatives and ~~1~~ or more employers ratified
 6 before the date of enactment of this Act, the
 7 amendments made by subsection (a) shall not
 8 apply to plan years beginning before the later
 9 of—

10 (i) the date on which the last collec-
 11 tive bargaining agreements relating to the
 12 plan terminates (determined without re-
 13 gard to any extension thereof agreed to
 14 after the date of enactment of this Act); or

15 (ii) ~~January 1, 2002.~~

16 For purposes of clause (i), any plan amendment
 17 made pursuant to a collective bargaining agree-
 18 ment relating to the plan which amends the
 19 plan solely to conform to any requirement
 20 added by subsection (a) shall not be treated as
 21 a termination of such collective bargaining
 22 agreement.

23 ~~(2) INDIVIDUAL HEALTH INSURANCE.—~~The
 24 amendments made by subsection (b) shall apply with
 25 respect to health insurance coverage offered, sold,

1 issued, renewed, in effect, or operated in the indi-
 2 vidual market on or after January 1, 2002.

3 (d) ~~COORDINATED REGULATIONS.~~—The Secretary of
 4 Labor and the Secretary of Health and Human Services
 5 shall ensure, through the execution of an interagency
 6 memorandum of understanding among such Secretaries,
 7 that—

8 (1) regulations, rulings, and interpretations
 9 issued by such Secretaries relating to the same mat-
 10 ter over which both Secretaries have responsibility
 11 under the provisions of this section (and the amend-
 12 ments made thereby) are administered so as to have
 13 the same effect at all times; and

14 (2) coordination of policies relating to enforcing
 15 the same requirements through such Secretaries in
 16 order to have a coordinated enforcement strategy
 17 that avoids duplication of enforcement efforts and
 18 assigns priorities in enforcement.

19 ***SECTION 1. SHORT TITLE; FINDINGS.***

20 (a) *SHORT TITLE.*—*This Act may be cited as the*
 21 *“Eliminate Colorectal Cancer Act of 2002”.*

22 (b) *FINDINGS.*—*The Congress finds the following:*

23 (1) *Colorectal cancer is the second leading cause*
 24 *of cancer deaths in the United States for men and*
 25 *women combined.*

1 (2) *It is estimated that in 2002, 148,300 new*
2 *cases of colorectal cancer will be diagnosed in men*
3 *and women in the United States.*

4 (3) *Colorectal cancer is expected to kill 56,600*
5 *individuals in the United States in 2002.*

6 (4) *The adoption of a healthy lifestyle at a*
7 *young age can significantly reduce the risk of devel-*
8 *oping colorectal cancer.*

9 (5) *Appropriate screenings and regular tests, can*
10 *save large numbers of lives by leading to earlier iden-*
11 *tification of colorectal cancer.*

12 (6) *The Centers for Disease Control and Preven-*
13 *tion, the Health Care Financing Administration, and*
14 *the National Cancer Institute have initiated the*
15 *Screen for Life Campaign targeted to individuals age*
16 *50 and older to spread the message of the importance*
17 *of colorectal cancer screening tests.*

18 (7) *Education helps to inform the public of*
19 *symptoms for the early detection of colorectal cancer*
20 *and methods of prevention.*

21 (8) *Too few American's are currently screened*
22 *for colorectal cancer according to widely accepted*
23 *guidelines.*

1 (9) *Assuring coverage for the full range of*
 2 *colorectal cancer tests is an important step in in-*
 3 *creasing screening rates.*

4 **SEC. 2. COVERAGE FOR COLORECTAL CANCER SCREENING.**

5 (a) *GROUP HEALTH PLANS.*—

6 (1) *PUBLIC HEALTH SERVICE ACT AMEND-*
 7 *MENTS.*—*The Public Health Service Act (42 U.S.C.*
 8 *201 et seq.) is amended by adding at the end the fol-*
 9 *lowing:*

10 **“TITLE XXIX—MISCELLANEOUS**
 11 **HEALTH COVERAGE**

12 **“SEC. 2901. COVERAGE FOR COLORECTAL CANCER SCREEN-**
 13 **ING.**

14 “(a) *COVERAGE FOR COLORECTAL CANCER SCREEN-*
 15 *ING.*—

16 “(1) *IN GENERAL.*—*A group health plan, and a*
 17 *health insurance issuer offering group health insur-*
 18 *ance coverage, shall provide coverage for colorectal*
 19 *cancer screening at regular intervals to—*

20 “(A) *any participant or beneficiary age 50*
 21 *or over; and*

22 “(B) *any participant or beneficiary under*
 23 *the age of 50 who is at a high risk for colorectal*
 24 *cancer.*

1 “(2) *DEFINITION OF HIGH RISK.*—For purposes
 2 of subsection (a)(1)(B), the term ‘high risk for
 3 colorectal cancer’ has the meaning given such term in
 4 section 1861(pp)(2) of the Social Security Act (42
 5 U.S.C. 1395x(pp)(2)).

6 “(3) *REQUIREMENT FOR SCREENING.*—The
 7 group health plan or health insurance issuer shall
 8 cover methods of colorectal cancer screening that—

9 “(A) are deemed appropriate by a physi-
 10 cian (as defined in section 1861(r) of the Social
 11 Security Act (42 U.S.C. 1395x(r))) treating the
 12 participant or beneficiary, in consultation with
 13 the participant or beneficiary;

14 “(B) are—

15 “(i) described in section 1861(pp)(1) of
 16 the Social Security Act (42 U.S.C.
 17 1395x(pp)(1)) or section 410.37 of title 42,
 18 Code of Federal Regulations; or

19 “(ii) specified by the Secretary, based
 20 upon the recommendations of appropriate
 21 organizations with special expertise in the
 22 field of colorectal cancer; and

23 “(C) are performed at a frequency not
 24 greater than that—

1 “(i) described for such method in sec-
 2 tion 1834(d) of the Social Security Act (42
 3 U.S.C. 1395m(d)) or section 410.37 of title
 4 42, Code of Federal Regulations; or

5 “(ii) specified by the Secretary for such
 6 method, if the Secretary finds, based upon
 7 new scientific knowledge and consistent
 8 with the recommendations of appropriate
 9 organizations with special expertise in the
 10 field of colorectal cancer, that a different
 11 frequency would not adversely affect the ef-
 12 fectiveness of such screening.

13 “(b) NOTICE.—A group health plan under this section
 14 shall comply with the notice requirement under section
 15 714(b) of the Employee Retirement Income Security Act of
 16 1974 with respect to the requirements of this section as if
 17 such section applied to such plan.

18 “(c) NON-PREEMPTION OF MORE PROTECTIVE STATE
 19 LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—
 20 This section shall not be construed to supersede any provi-
 21 sion of State law which establishes, implements, or con-
 22 tinues in effect any standard or requirement solely relating
 23 to health insurance issuers in connection with group health
 24 insurance coverage that provides greater protections to par-

1 *ticipants and beneficiaries than the protections provided*
 2 *under this section.*

3 “(d) *DEFINITIONS AND ENFORCEMENT.*—*The defini-*
 4 *tions and enforcement provisions of title XXVII shall apply*
 5 *for purposes of this section.*”.

6 (2) *ERISA AMENDMENTS.*—

7 (A) *IN GENERAL.*—*Subpart B of part 7 of*
 8 *subtitle B of title I of the Employee Retirement*
 9 *Income Security Act of 1974 (29 U.S.C. 1185 et*
 10 *seq.) is amended by adding at the end the fol-*
 11 *lowing new section:*

12 **“SEC. 714. COVERAGE FOR COLORECTAL CANCER SCREEN-**
 13 **ING.**

14 “(a) *COVERAGE FOR COLORECTAL CANCER SCREEN-*
 15 *ING.*—

16 “(1) *IN GENERAL.*—*A group health plan, and a*
 17 *health insurance issuer offering group health insur-*
 18 *ance coverage, shall provide coverage for colorectal*
 19 *cancer screening at regular intervals to—*

20 “(A) *any participant or beneficiary age 50*
 21 *or over; and*

22 “(B) *any participant or beneficiary under*
 23 *the age of 50 who is at a high risk for colorectal*
 24 *cancer.*

1 “(2) *DEFINITION OF HIGH RISK.*—For purposes
 2 of subsection (a)(1)(B), the term ‘high risk for
 3 colorectal cancer’ has the meaning given such term in
 4 section 1861(pp)(2) of the Social Security Act (42
 5 U.S.C. 1395x(pp)(2)).

6 “(3) *REQUIREMENT FOR SCREENING.*—The
 7 group health plan or health insurance issuer shall
 8 cover methods of colorectal cancer screening that—

9 “(A) are deemed appropriate by a physi-
 10 cian (as defined in section 1861(r) of the Social
 11 Security Act (42 U.S.C. 1395x(r))) treating the
 12 participant or beneficiary, in consultation with
 13 the participant or beneficiary;

14 “(B) are—

15 “(i) described in section 1861(pp)(1) of
 16 the Social Security Act (42 U.S.C.
 17 1395x(pp)(1)) or section 410.37 of title 42,
 18 Code of Federal Regulations; or

19 “(ii) specified by the Secretary, based
 20 upon the recommendations of appropriate
 21 organizations with special expertise in the
 22 field of colorectal cancer; and

23 “(C) are performed at a frequency not
 24 greater than that—

1 “(i) described for such method in sec-
 2 tion 1834(d) of the Social Security Act (42
 3 U.S.C. 1395m(d)) or section 410.37 of title
 4 42, Code of Federal Regulations; or

5 “(ii) specified by the Secretary for such
 6 method, if the Secretary finds, based upon
 7 new scientific knowledge and consistent
 8 with the recommendations of appropriate
 9 organizations with special expertise in the
 10 field of colorectal cancer, that a different
 11 frequency would not adversely affect the ef-
 12 fectiveness of such screening.

13 “(b) NOTICE UNDER GROUP HEALTH PLAN.—The im-
 14 position of the requirements of this section shall be treated
 15 as a material modification in the terms of the plan de-
 16 scribed in section 102(a), for purposes of assuring notice
 17 of such requirements under the plan; except that the sum-
 18 mary description required to be provided under the third
 19 to last sentence of section 104(b)(1) with respect to such
 20 modification shall be provided by not later than 60 days
 21 after the first day of the first plan year in which such re-
 22 quirements apply.”.

23 (B) TECHNICAL AND CONFORMING AMEND-
 24 MENTS.—

1 (i) *Section 731(c) of the Employee Re-*
 2 *irement Income Security Act of 1974 (29*
 3 *U.S.C. 1191(c)) is amended by striking*
 4 *“section 711” and inserting “sections 711*
 5 *and 714”.*

6 (ii) *Section 732(a) of the Employee*
 7 *Retirement Income Security Act of 1974 (29*
 8 *U.S.C. 1191a(a)) is amended by striking*
 9 *“section 711” and inserting “sections 711*
 10 *and 714”.*

11 (iii) *The table of contents in section 1*
 12 *of the Employee Retirement Income Secu-*
 13 *rity Act of 1974 is amended by inserting*
 14 *after the item relating to section 713 the fol-*
 15 *lowing new item:*

“Sec. 714. Coverage for colorectal cancer screening.”.

16 (b) *INDIVIDUAL HEALTH INSURANCE.—*

17 (1) *IN GENERAL.—Part B of title XXVII of the*
 18 *Public Health Service Act (42 U.S.C. 300gg–41 et*
 19 *seq.) is amended by inserting after section 2752 the*
 20 *following new section:*

21 **“SEC. 2753. COVERAGE FOR COLORECTAL CANCER SCREEN-**
 22 **ING.**

23 “(a) *IN GENERAL.—The provisions of section 2901(a)*
 24 *shall apply to health insurance coverage offered by a health*
 25 *insurance issuer in the individual market in the same man-*

ner as it applies to health insurance coverage offered by
 a health insurance issuer in connection with a group health
 plan in the small or large group market.

“(b) NOTICE.—A health insurance issuer under this
 part shall comply with the notice requirement under section
 714(b) of the Employee Retirement Income Security Act of
 1974 with respect to the requirements referred to in sub-
 section (a) as if such section applied to such issuer and
 such issuer were a group health plan.”.

(2) TECHNICAL AMENDMENT.—Section
 2762(b)(2) of the Public Health Service Act (42
 U.S.C. 300gg–62(b)(2)) is amended by striking “sec-
 tion 2751” and inserting “sections 2751 and 2753”.
 (c) EFFECTIVE DATES.—

(1) GROUP HEALTH PLANS.—The amendments
 made by subsection (a) shall apply with respect to
 group health plans for plan years beginning on or
 after January 1, 2003.

(2) INDIVIDUAL HEALTH INSURANCE.—The
 amendments made by subsection (b) shall apply with
 respect to health insurance coverage offered, sold,
 issued, renewed, in effect, or operated in the indi-
 vidual market on or after January 1, 2003.

(d) COORDINATED REGULATIONS.—The Secretary of
 Labor and the Secretary of Health and Human Services

1 *shall ensure, through the execution of an interagency memo-*
2 *randum of understanding among such Secretaries, that—*

3 (1) *regulations, rulings, and interpretations*
4 *issued by such Secretaries relating to the same matter*
5 *over which both Secretaries have responsibility under*
6 *the provisions of this section (and the amendments*
7 *made thereby) are administered so as to have the*
8 *same effect at all times; and*

9 (2) *coordination of policies relating to enforcing*
10 *the same requirements through such Secretaries in*
11 *order to have a coordinated enforcement strategy that*
12 *avoids duplication of enforcement efforts and assigns*
13 *priorities in enforcement.*

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Reported with an amendment